11-07-05

PTO/SB/21 (09-04)
Approved for use through 7/31/2006
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE to respond to a collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays as the collection of information unless it displays a valid OMP acately as the collection of information unless it displays as the collection of the c

Under the Paperwork Reduction act of 1995, no persona are required to respond to a collection of information unless it displays a valid OMB control number.								
TRANSMITTAL				Application Number		10/822,333		
NOV 0 4 2005 B				Filing Date		April 12, 2004		
			First Named Inventor		Richard Ancimer			
			Art Unit		3747			
			Examiner Name		Johnny H. Hoang			
all correspondence after initial filing)				Attamas Daglet Number		15063US02		
Total Number of Pages	sion 4		Attorney Docket Number   15		150630			
ENCLOSURES (check all that apply)								
Fee Transmittal Fo	Transmittal Form				Aft	ter Allowance Communication		
Fee Attached	Foo Attached		elat	ted Papers	to TC			
		Licensing-related Papers			Appeal Communication to Board			
Amendment/Reply		Petition			of A	Appeals and Interferences		
After Final		Petition to Convert to a			Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)			
Affidavits/declaration(s)  Extension of Time Request  Express Abandonment Request  Information Disclosure Statement		Provisional Application  Power of Attorney, Revocation Change of Correspondence Address		Dilcation				
				•	Proprietary Information			
				Status Letter  Return-Receipt Postcard				
		Terminal Disclaimer						
		Request for Refund			Other Enclosure(s) (please identify below):			
Certified Copy of Priority		CD Number of CD(s)			identify below).			
Document(s) Reply to Missing Parts/ Incomplete Application		Landsc	Table on CD					
			-					
Reply to Missing Parts under 37 CFR 1.52 or 1.53		Remarks						
07 01 10 1.02 01	1.00							
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT								
D:								
Firm or								
Individual Name	McAndrews Held & Malloy, Ltd.							
Name (Print/type)	Kirk A. Yander Leest / Regi			istration No. (Attorney/Agent) 34,036			34,036	
Signature	Date: November 4, 2005							
EXPRESS MAIL DEPOSIT								
"Express Mail" mailing label number: EV 728 014 335 US Date of Deposit November 4, 2005.								



## N THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION OF:	) <u>Certificate of Express Mail</u> Label No. EV 728 014 335 US
RICHARD ANCIMER	) I hereby certify that this correspondence is being deposited with the United States
SERIAL NO. 10/822,333	Postal Service as Express Mail, postage prepaid, in an envelope addressed to:
FILING DATE: April 12, 2004	Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 4, 2005.
FOR: METHOD AND APPARATUS FOR CONTROLLING AN INTERNAL COMBUSTION ENGINE USING ACCELEROMETERS	Kirk A. Vander Leest Registration No. 34,036 Attorney for Applicant
GROUP ART UNIT: 3747	)
EXAMINER: Johnny H. Hoang	)
Customer No. 23446	)
Confirmation No. 3105	

## **RESPONSE TO OFFICE ACTION**

Mail Stop Amendment Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Į,

This responds to the Office Action issued on August 5, 2005 and setting a response date of November 5, 2005. Claims 1-25 remain in the application. Claims 15-26 have been allowed. Claims 1-14 stand rejected under 35 U.S.C.  $\S112$ ,  $\P2$ , as being indefinite in their use of the term "lever." The Office Action also objects to the use of the term "lever" in paragraphs 3, 9, 10 and 12 of the specification.

The Applicant has been requested to show that the phrase "lever" as recited in claims 1-14 and the specification is definite. Initially, it is noted that the claim 1 and the specification actually use the term "start of combustion lever." In view of the specification, this phrase adequately describes start of combustion levers (*i.e.*, control parameters) and, therefore, adequately describes what is within the claim. This phrase is therefore definite.

The relevant statute, 35 U.S.C. §112, ¶2, requires that the claims "particularly [point] out and distinctly [claim] the subject matter which the Applicant regards as his invention." The operative standard for determining whether this requirement has been met is "whether those skilled in the art would understand what is claimed when the claim is read in light of the specification."

In this application "lever" is readily understandable to a person ordinarily skilled in the art, upon review of this specification. Specifically, the term referred to relates to "start of combustion lever" or "SOC lever". The term "lever" is used throughout the specification as a generic term referring to any of a variety of engine control parameters that are capable of being altered during engine operation and, thereby, influence start of combustion in a cycle of the engine - *i.e.*, combustion phasing. Moreover, in the disclosure, the paragraphs highlighted by the examiner as being unclear for the use of "lever" refer to a lever capable of combustion phasing. That aside, "start of combustion lever" or "SOC lever" is clearly explained in the specification. For example, paragraph 67 states that control over

SOC is realized by adjusting SOC levers as would be understood by a person skilled in the art. SOC levers known in the art include pilot fuel quantity, duration and timing, intake manifold temperature and pressure, internal or external EGR levels or concentrations, fumigated air-fuel equivalence ratio, effective compression or expansion ratios, spark plug timing and glow plug temperature.

Therefore, it is respectfully submitted that the term "start of combustion lever" as recited in the claims and specification is sufficiently clear and definite to meet the statutory requirements for patentability.

-2-

Response to Office Action dated August 5, 2005 Serial No. 10/822,333

In view of the above, claims 1-25 are believed to be in condition for allowance. The Examiner is invited to telephone the Applicant's undersigned attorney at (312) 775-8000 if any unresolved matters remain.

Please charge any fees incurred in connection with this submission to Deposit Account No. 13-0017.

Respectfully submitted,

Kirk A. Vander Leest Registration No. 34,036 Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD. Citicorp Center 500 West Madison Street, 34th Floor Chicago, Illinois 60661

Telephone

(312) 775-8000

Facsimile

(312) 775-8100

Dated: November 4, 2005